

CHARLOTTE COUNTY PLANNING AND ZONING BOARD
Administration Center, 18500 Murdock Circle, Room 119,
Port Charlotte, Florida
Minutes of Regular Meeting
January 12, 2015 @ 1:30 p.m.

Call to Order

Chair Hess called the meeting to order at 1:32 p.m. and upon the Secretary calling the roll, it was noted a quorum was present.

Roll Call

PRESENT

Paula Hess
Michael Gravesen
Ken Chandler
Stephen Vieira
Paul Bigness

ABSENT

ATTENDING

Joshua Moya, Assistant County Attorney
Gayle Moore, Recording Secretary

APPROVAL OF MINUTES

The minutes of December 8, 2014 were approved as circulated.

ANNOUNCEMENTS

Chair Hess indicated that agenda item 2 would not be heard today; **Mr. Shaun Cullinan**, Planning and Zoning Manager, indicated that item 6 also will not be heard today; additionally, he proposed to the Board that there be a special meeting on Monday, Feb. 2nd, regarding the Habitat Conservation Plan (HCP) which addresses scrub jay issues, in order for that matter to be considered by the BCC as soon as possible. This long-running project was recently approved at the state level, and needs to go before the Commission as soon as possible. **Chair Hess** polled the Board, and found that all Board members could be available on the date mentioned.

Assistant County Attorney Josh Moya suggested a special Motion, which was then made by Mr. Gravesen, to have a special meeting of the Planning and Zoning Board on February 2, 2015, at 1:30 p.m., to hear the conservation plan for the scrub jays, seconded by Mr. Vieira, and passed unanimously.

PETITIONS:

SV-14-11-02

Legislative

Commission District III

Safe Cove, Inc. is requesting to vacate a remnant of Apperson Circle (platted Apperson Road), in Port Charlotte Subdivision Section 85, as recorded in Plat Book 6, Page 60N, of the Official Records of Charlotte County, Florida. The site is 0.086 acres, more or less, and is located east of Winborough Drive, north of Robin Road, south of Appleton Boulevard, and west of the Santa Cruz Waterway, Section 29, Township 41S, Range 21E, in Commission District III.

Staff Presentation

Steven Ellis, Planner II, presented the findings and analysis of the petition with a recommendation of *Approval*, based on the reasons stated in the staff report dated December 18, 2014. **Mr. Ellis** gave brief details regarding the request, noting that this vacation is being requested due to the need to install an electric gate at that point for improved security.

Questions for Staff

None.

Applicant's Presentation

Mr. Jaroslav Cervenka, President of Save Cove, Inc., approached the podium, but there were no questions for him from the Board.

Public Input

Mr. Richard Bossey, original developer and former owner of the property, the original petitioner for the request to vacate Apperson Circle, and the adjoining property owner; he spoke in support of the petition and handed out material to the Board in support of the request.

- **Mr. Gravesen** moved to close the public hearing, second by **Mr. Vieira** with a unanimous vote.

Discussion

Chair Hess indicated she felt the request was reasonable and she was in favor of recommending approval.

Recommendation

Mr. Bigness moved that SV-14-11-02 be sent to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated December 18, 2014, along with the evidence presented at today's meeting, second by **Mr. Chandler** and carried by a unanimous vote.

PA-14-11-17-LS

Legislative

Commission District I

Pursuant to Section 163.3184(3), Florida Statutes, transmit a Large Scale Plan Amendment to the Department of Economic Opportunity for review and comments; the request is to amend the Future Land Use (FLU) Element, FLU Appendix I: Land Use Guide, FLU Appendix II: Future Land Use Map Series, and FLU Appendix IV: Revitalization Plans to create the Charlotte Harbor Community Revitalization Plan; Petition No. PA-14-11-17-LS; Applicant: Charlotte County Board of County Commissioners; providing an effective date.

Staff Presentation

Matt Trepal, Principal Planner, presented the findings and analysis of the petition with a recommendation of *Approval for transmittal to the Department of Economic Opportunity*, based on the reasons stated in the staff report dated December 1, 2014, giving brief details regarding the request. **Mr. Trepal** noted this was the first of two petitions regarding the Charlotte Harbor Community Redevelopment Area (CHCRA), and gave details about the four amendments to the Future Land Use Element that are being requested: First, adding three FLUM series maps; second, adding a new FLUE policy 4.2.4; third, adding FLUE policy 4.2.5, establishing the Revitalization Plan; and fourth, deleting several existing policies which are now redundant. He described the various pre-existing FLU designations which would be combined into a single new designation with new densities. He also spoke about the maps to be added, giving details on their content.

FLU appendix 4, concerning revitalization policies, is currently empty; this proposed amendment will contain existing policies moved here from elsewhere, plus new ones; he described the content of this section of the proposed amendment.

Questions for Staff

None.

Public Input

Ms. Charlotte Ventila, resident of Charlotte Harbor and a member of the CHCRA, spoke in support of the amendment.

- **Mr. Gravesen** moved to close the public hearing, second by **Mr. Bigness** with a unanimous vote.

Discussion

Chair Hess indicated that the proposed amendment is in conformance with the Comprehensive Plan and she would vote to approve it. **Mr. Vieira** had a question about the Harborview DRI, but Mr. Trepal pointed out that is not part of the CRA.

Recommendation

Mr. Vieira moved that PA-14-11-17-LS be sent to the Board of County Commissioners with a recommendation of *Approval for transmittal to the Department of Economic Development*, based on the findings and analysis in the staff report dated December 1, 2014, along with the evidence presented at today's meeting, second by **Mr. Gravesen** and carried by a unanimous vote.

PA-14-04-04-LS

Legislative

Commission District I

Pursuant to Section 163.3184(3), Florida Statutes, transmit a Large Scale Plan Amendment to the State for review and comments; the request is to amend the Future Land Use Map designations of various properties in the Charlotte Harbor Community Redevelopment Area; containing 83.92± acres; Petition No. PA-14-04-04-LS; Applicant: Charlotte County Board of County Commissioners; providing an effective date.

Staff Presentation

Matt Trepal, Principal Planner, presented the findings and analysis of the petition with a recommendation of *Approval*, based on the reasons stated in the staff report dated December 12, 2014, giving brief details regarding the request, which affects 255 parcels within the CHCRA. Table 1 of the staff report shows the changes being suggested, which primarily consolidate various residential and commercial district properties into a single Charlotte Harbor Mixed Use designation; where changes involved the CI vs. the CG zoning district, Mr. Trepal reminded the Board that the County's Zoning Code had recently combined those two zoning districts, but he noted that the maps are still being updated. He also discussed the proposed changes in density on the land under these new designations and explained the annotations referring to base density would be required until such time as additional density is transferred onto the properties. This petition is proposed in order amend the Future Land Use Map to create consistency with the amendments proposed in the former petition, PA-14-11-17-LS.

Questions for Staff

None.

Public Input

Ms. Charlotte Ventila again spoke in support of the proposal, with some details about how this effort is to reduce disadvantages amongst some of the properties, with the intention of permitting more and better development.

- **Mr. Gravesen** moved to close the public hearing, second by **Mr. Chandler** with a unanimous vote.

Discussion

Chair Hess indicated she was in favor of consolidating the three various districts into Mixed Use and also agreed with the other initiatives, and said it should be approved.

Recommendation

Mr. Vieira moved that PA-14-04-04-LS be sent to the Board of County Commissioners with a recommendation of *Approval for transmittal to the Department of Economic Development*, based on the findings and analysis in the staff report dated December 12, 2014, along with the evidence presented at today's meeting, second by **Mr. Gravesen** and carried by a unanimous vote.

PA-14-09-14-LS

Legislative

Countywide

Pursuant to Section 163.3184(3), Florida Statutes, transmit a Large Scale Plan Amendment to the Department of Economic Opportunity (DEO) for review and comments; the request is to amend FLU Appendix I: Land Use Guide by revising the Mineral Resource Extraction (MRE) Future Land Use Map (FLUM) category, amending the "Requirements of the Plan Amendment" and the "Special Provisions" subsections of the MRE FLUM category; replace the term "Group III excavation(s)" with "Commercial Excavation(s)" in the County's Comprehensive Plan; Petition No. PA-14-09-14-LS; Applicant: Charlotte County Board of County Commissioners; providing an effective date.

Staff Presentation

Anthony Rodriguez, Planner II, presented the findings and analysis of the petition with a recommendation of *Approval for transmittal to the Department of Economic Development*, based on the reasons stated in the staff report dated December 19, 2014, giving brief details regarding the request. Mr. Rodriguez spoke briefly regarding the background of this request, which is an amendment to the FLU appendix I, the land use guide (specifically, the Mineral Resource Extraction FLUM category) and to correct a scrivener's error to FLUM series map 24.

These final revisions updating the County's excavation and earthmoving regulates include: ensuring consistency between the Code language adopted in September 2014 and the Comprehensive Plan, and involves eliminating term "Group III" excavation, in favor of "Commercial Excavation", per the Code; revision of the sub-section entitled Requirements of the Plan Amendment to clarify permitted and prohibited locations; revision of the subsection entitled Special Provisions to allow limited medication to existing permits without an MRE FLUM designation and zoning designation; the ability to transfer a current valid permit to a new owner, etc.

Questions for Staff

Chair Hess inquired whether the prior terminology remains the same as when the Board approved it previously; **Mr. Rodriguez** confirmed that it did, but that the map error was caught after that hearing, so that part is new.

Public Input

Ms. Deborah Highsmith, representing herself and the Greater Charlotte Harbor Sierra Group, had a handout for the Board and staff which she provided to those on the dais. **Ms. Highsmith** spoke against the proposed revisions, noting she had attended all the LDR roundtables held by staff and by the BCC. She spoke to the issue of the map, noting it is a compilation of data supplied by the Southwest Regional water management districts, noting that changes to the Plan need to be based on changes in the data, but there has been no changes from those agencies on the underlying data.

Ms. Highsmith also objected to the change in language which would allow mines with expiring permits to seek a renewal without a land use change. She spoke about the significance of Shell and Prairie Creeks as potable water sources for the area served by the Hendrickson Dam Reservoir.

Ms. Highsmith asserted that allowing expiring mines to continue without seeking the land use change is not consistent with the Comp Plan. She also referenced a spreadsheet prepared by Engineering Staff, showing there is only one expiring mine which would be affected by the proposed changes to the Comp Plan; she questioned making a change in the Comp Plan for the benefit of just the one mine owner. She asked how long mines can operate before being phased out under the current Comp Plan; she also noted the strike-through of Special Provisions 3, 4 and 5 which remove the process from public review at the Comp Plan level. **Chair Hess** asked if she had brought up these inconsistencies at the roundtables; **Ms. Highsmith** responded that she had done so many times.

Chair Hess next asked to hear from staff on the points raised by Ms. Highsmith; **Joanne Vernon**, County Engineer and Excavations Administrator, responded, noting that this change is for all mines not just the one expiring soonest. This subject was brought up and noted, and a majority in the roundtables felt it should move forward anyway. **Ms. Vernon** indicated that this initiative was made in response to the downturn in the economy which caused mined materials to be in limited demand, and it was thought that these changes would help that industry.

Ms. Geri Waksler, attorney to mine owner Bermont Road Partnership, spoke, emphasizing that these changes apply to all mines, many of which were permitted back in 2007 and had no activity since then due to the poor economy; she noted that their permits are issued for just 10 years, and most of that time period has passed with the mining inactive. Mine permitting is an expensive proposition, making this is a lot of money to just throw away; the proposed changes will allow these businesses to recoup their investment.

Robert H. Berntsson, Esq., addressed the Board next, reiterating most of what Ms. Waksler had said. He pointed out that a mining permit issued at the state level is for a much longer period of time than the local permit, which has been for just ten years, renewable up until the proposed rules change. Mines are being prohibited in so many places now, and **Mr. Berntsson** indicated his conviction that the matter will be revisited e.g., when building projects like Winchester get started and we are faced with hauling dirt from east county to west county. He suggested it might be decided then to go back to the little mines operating all over west county to supply that road work.

- **Mr. Gravesen** moved to close the public hearing, second by **Mr. Vieira** with a unanimous vote.

Discussion

Chair Hess recapped the circumstances surrounding this representation, emphasizing that this was all essentially the same material as the Board had already heard and approved at a prior meeting and that they are just reapproving the matter.

Recommendation

Mr. Gravesen moved that PA-14-09-14-LS be sent to the Board of County Commissioners with a recommendation of *Approval for transmittal to the Department of Economic Opportunity*, based on the findings and analysis in the staff report dated December 19, 2014, along with the evidence presented at today's meeting, second by **Mr. Vieira** and carried by a unanimous vote.

Chair Hess asked Mr. Moyer for guidance on the next segment of the hearing, whether they could be approved under one vote, or would votes on each individual section be preferable, and **Mr.**

Moye indicated they should be voted individually. **Mr. Gravesen** asked whether they could be presented all at once, so it wouldn't be necessary to continually open and close public hearing, and that was deemed to be acceptable.

Revisions to the Charlotte County Land Development Regulations

Legislative

Countywide

Staff Presentation

Jie Shao, Planner III, presented the findings and analysis of the petition with a recommendation of Approval, based on the reasons stated in the staff report dated December 19, 2014, giving brief details on the method of presentation of these items to the Board, the first Phase having been heard last September and approved by the Commission on Nov. 25th. **Ms. Shao** noted that this is the Phase II segment of the revisions process, and then reviewed the primary purpose of the changes for each of the following individual sections of the code:

Assisted Living Facility

Legislative

Countywide

An Ordinance of the Board of County Commissioners of Charlotte County, Florida, amending Charlotte County Code Chapter 3-9, by revising Section 3-9-62, Assisted Living Facility (ALF); providing for revised location; providing for revised development standards; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

This was changed to be consistent with the recently-adopted zoning district and the regulations, such as Special Exception requirements.

Alcoholic Beverages

Legislative

Countywide

An Ordinance of the Board of County Commissioners of Charlotte County, Florida, amending Charlotte County Code Chapter 3-9, by revising Section 3-9-64, Alcoholic Beverages; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

This was changed to be consistent with the recently-adopted zoning district and the regulations, such as elimination of the reference to "house of worship" and the separation distance of 1,000 ft. (which now only applies to schools.)

Bridgeless Barrier Islands

Legislative

District III

An Ordinance of the Board of County Commissioners of Charlotte County, Florida, amending Charlotte County Code Chapter 3-9, by revising Section 3-9-66, Bridgeless Barrier Islands; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

The date was changed to be consistent with the recently-adopted zoning district.

Essential Services

Legislative

Countywide

An Ordinance of the Board of County Commissioners of Charlotte County, Florida, amending Charlotte County Code Chapter 3-9, by revising Section 3-9-71, Essential Services; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

This was changed to be consistent with the recently-adopted zoning district and specifically the combination of the CG and CI zoning districts, e.g., basically a "housekeeping" update.

Fences; Walls

Legislative

Countywide

An Ordinance of the Board of County Commissioners of Charlotte County, Florida, amending Charlotte County Code Chapter 3-9, by revising Section 3-9-72, Fences; Walls; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

This was changed to be consistent with the recently-adopted zoning district and the regulations, and to add development standards to deal with subdivision perimeter walls and height requirements.

Sexually Oriented Businesses

Legislative

Countywide

An Ordinance of the Board of County Commissioners of Charlotte County, Florida, amending Charlotte County Code Chapter 3-9, by revising Section 3-9-84, Sexually Oriented Businesses; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

This was changed to be consistent with Chapter I, Article V.

Questions for Staff

Chair Hess called for comment on the changes to the Assisted Living Facilities section; none were offered by others, so she posed her own questions, asking whether there are standards for how many bathrooms must be available for number of residents; **Ms. Shao** indicated those were state standards and **Mr. Bigness** agreed that it was heavily regulated, with strict standards.

On the next section, concerning Alcoholic Beverages, there was again a call for comment, none were forthcoming; **Chair Hess** asked about the omission of "house of worship" in the 1,000 ft. distance prohibition. **Mr. Gravesen** and **Mr. Cullinan** both had comments pointing out that places of worship now occupy many different types of buildings, including places in commercial districts where the expectations as to the possible neighboring businesses would be different; in residential districts, the alcoholic beverages businesses would not be permitted in any event.

Mr. Berntsson added to Mr. Cullinan's comment; places of worship are totally different today, with fewer dedicated church sites and more locations in strip malls, etc., so the code was seen to be antiquated.

Next, regarding the Bridgeless Barrier Islands (BBI) code, is merely a matter of consistency with dates already set in the BBI District language. **Chair Hess** mentioned a scrivener's error she found in the title section where it refers to Alcoholic Beverages. No further comment was offered on this section.

Item ten was another consistency revision in the Essential Services section; **Mr. Gravesen** questioned staff regarding removal of the screening buffer requirements in Paragraph 4, asking the purpose of that revision. Ms. Shao said that the language referenced the old Code Sec. 3-9-83, so the language was removed. Mr. Gravesen asked specifically if this change means that a lift station doesn't need to be buffered; Ms. Shao replied that it's in the other, newer buffering code.

Item 11 is another consistency change, once again referencing the buffering language which is now in a new section. The language change here is for fences and walls.

Finally, item12 has been updated to be consistent with Chapter 1, Article V, mostly numbers and terminologies regarding the sexually-oriented businesses, but no changes in intent. No comment was offered on this section.

Public Input

None.

- **Mr. Gravesen** moved to close the public hearing, second by **Mr. Vieira** with a unanimous vote.

Discussion

None.

Recommendation

Mr. Gravesen moved that Sec. 3-9-62, Assisted Living Facilities, be sent to the Board of County Commissioners with a recommendation of *Approval* based on the findings and analysis in the staff report dated December 19, 2014, along with the evidence presented at today's meeting, second by **Mr. Viera** and carried by a unanimous vote.

Mr. Gravesen moved that Sec. 3-9-64, Alcoholic Beverages, be sent to the Board of County Commissioners with a recommendation of *Approval* based on the findings and analysis in the staff report dated December 19, 2014, along with the evidence presented at today's meeting, second by **Mr. Viera** and carried by a unanimous vote.

Mr. Gravesen moved that Sec. 3-9-66, Bridgeless Barrier Islands, be sent to the Board of County Commissioners with a recommendation of *Approval* based on the findings and analysis in the staff report dated December 19, 2014, along with the evidence presented at today's meeting, second by **Mr. Viera** and carried by a unanimous vote.

Mr. Gravesen moved that Sec. 3-9-7,1 Essential Services, be sent to the Board of County Commissioners with a recommendation of *Approval* based on the findings and analysis in the staff report dated December 19, 2014, along with the evidence presented at today's meeting, second by **Mr. Viera** and carried by a unanimous vote.

Mr. Gravesen moved that Sec. 3-9-72, Fences and Walls, be sent to the Board of County Commissioners with a recommendation of *Approval* based on the findings and analysis in the staff report dated December 19, 2014, along with the evidence presented at today's meeting, second by **Mr. Viera** and carried by a unanimous vote.

Mr. Gravesen moved that Sec. 3-9-84, Sexually Oriented Businesses be sent to the Board of County Commissioners with a recommendation of *Approval* based on the findings and analysis in the staff report dated December 19, 2014, along with the evidence presented at today's meeting, second by **Mr. Viera** and carried by a unanimous vote.

Unified Land Development Code Revisions, Phase II
Memo to the Board - II

Revisions to Manasota and Sandpiper Key

Zoning District Overlay

Legislative

District III

An Ordinance of the Board of County Commissioners of Charlotte County, Florida, amending Charlotte County Code Chapter 3-9, by revising Section 3-9-50, Manasota Key Zoning District

Overlay, and renaming this Section to Manasota and Sandpiper Key Zoning District Overlay; clarifying the intent and requirements of the code; adding back in provisions that were omitted in 2013 revisions; adding new provisions to address issues that have arisen during implementation of the code; making minor corrections and editorial changes; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

Staff Presentation

Jie Shao, Planner III, presented the findings and analysis of the petition with a recommendation of Approval, based on the reasons stated in the staff report dated December 19, 2014, giving brief details regarding some issues which have arisen since the last set of changes for this Overlay Code were adopted by the Commission in September 2014. As indicated in the staff report, these revisions are intended to clarify the intent and requirements of the Overlay Code, and to add back provisions that were omitted in 2013, and create additions based on concerns arising since that time. Staff suggested some changes, the Manasota And Sandpiper Key Advisory Committee agreed, and these revisions are the result.

Questions for Staff

None.

Public Input

Robert H. Berntsson, Esq., spoke in support of the project, noting he had worked closely with Ms. Tina Bernd-Cohen representing the Advisory Committee in the review of this Code. He brought up two more minor issues that have just been discovered during their review, one regarding when projects come before the committee, and the other concerning the uniform line of construction which could be better stated; he noted that they would provide improved language to staff before the Commission hearing. **Chair Hess** agreed this Board could mention the additional expected verbiage in the language of the recommendation made today.

Mr. Bigness asked Mr. Berntsson to be more specific about the concern over the timing of projects coming before the Advisory Committee; **Mr. Berntsson** said that the Committee wants things to come earlier before the Committee, in order for them to have adequate time to comment before a project is too far along. **Mr. Bigness** asked if there was any language that imposes time frames for comment on the Committee, especially for simple items such as dumpster enclosures, that may be delayed for months. **Mr. Cullinan** addressed these issues, noting that on a few occasions, projects have been approved by the County before going to the Committee, and steps have been taken to address that; as for Mr. Bigness's concern, he realized sometimes things take a long time to get thru the Advisory Committee, but he said that county staff does everything possible to move projects along. The Uniform line of Construction is a very recent issue, involving FDEP as well, which is why it came in late. **Mr. Moya** noted that this Board's recommendation doesn't need to approve any language they haven't seen; the motion should just acknowledge that there are ongoing discussions between staff and key.

- **Mr. Gravesen** moved to close the public hearing, second by **Mr. Vieira** with a unanimous vote.

Discussion

Chair Hess indicated that language would be added to the Recommendation clarifying that what is being approved today is only what has actually been presented before the Board today, as follows:

We understand that the Advisory Committee, working with staff, will add language beyond what is being approved today.

Recommendation

Mr. Bigness moved that the 3-9-50, Manasota and Sandpiper Key Overlay Zoning District be sent to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated December 19, 2014, along with the evidence presented at today's meeting, second by **Mr. Gravesen** and carried by a unanimous vote.

Mr. Moya advised that the By-Laws call for an election at this time; **Chair Hess** passed the gavel for the nomination. **Mr. Gravesen** moved that the Board retain the current positions, and the motion passed unanimously.

The Chair reminded Board members that they would next convene for a special meeting on Feb. 2nd at the usual time, and then have their regular meeting on Feb. 9th .

There being no further business to come before the Board, the meeting was adjourned at 2:49 p.m.